

1 the state court trial, which is set to begin on May 9, 2011. (ECF No. 8). Respondents have filed an
2 opposition to the motion for a stay. (ECF No. 9). Respondents have also filed an answer to the
3 petition for a writ of habeas corpus. (ECF No. 5). Ambro has filed a reply to the answer. (ECF No.
4 6). This Court now considers the petition for a writ of habeas corpus and rules on petitioner's
5 motion for a stay of the state court trial.

6 **I. Factual Background**

7 Petitioner Ambro is the defendant in the state criminal case of *State of Nevada v. Lacey Ruth-*
8 *Marie Ambro, Case No. 08-C-247010-C*, which is the result of a three-count indictment returned by
9 the Clark County grand jury. The indictment was filed on August 15, 2008. Ambro was indicted on
10 charges of driving while under the influence of intoxicating liquor causing death and/or substantial
11 bodily harm (Felony-NRS 484.3795), based on the events of February 13, 2008. (State Court
12 Indictment, at ECF No. 1-1). In Count I of the indictment, Ambro was charged with driving while
13 under the influence of an intoxicating liquor causing the death of James English. (*Id.*, at p. 2). In
14 Count II, Ambro was charged with driving while under the influence of an intoxicating liquor
15 causing the death of Zoe Roanoke. (*Id.*, at pp. 2-3). In Count III, Ambro was charged with driving
16 while under the influence of an intoxicating liquor causing substantial bodily harm to Cathy Griczen.
17 (*Id.*, at pp. 3-4). James English, Zoe Roanoke, and Cathy Griczen were all passengers in the vehicle
18 driven by Ambro, which left the roadway and turned over. (*Id.*, at pp. 2-4).

19 Ambro was arraigned and her case has been set for trial. Ambro filed a petition for a writ of
20 habeas corpus in state court, challenging the validity of her indictment. (Exhibit 2 to Answer). The
21 State filed a return (Exhibit 3), and Ambro filed a reply (Exhibit 4). On March 18, 2010, Judge Vega
22 of the Eighth District Court for the State of Nevada entered an order denying the petition. (Exhibit 5
23 to Answer). Ambro filed a petition for a writ of mandamus with the Nevada Supreme Court, which
24 was denied by order filed May 7, 2010. (Exhibit 6 to Answer).

1 Ambro filed the instant federal habeas petition on May 21, 2010. (ECF No. 1). In the
2 petition, Ambro contends that the indictment is conclusory and violates her Sixth Amendment right
3 to have notice of the charges against her. (ECF No. 1). In the memorandum of points and authorities
4 to the federal petition, Ambro argues that the indictment fails to set forth facts to show how she
5 violated the alleged “act or neglect of duty” element of felony DUI under NRS 484.3795. (ECF No.
6 1, at p. 4). As habeas relief, Ambro requests that this Court make a finding that the state indictment
7 is unconstitutionally conclusory and that this Court order the State of Nevada to dismiss the
8 indictment. (ECF No. 1, at p. 2).

9 **II. Discussion**

10 Under principles of comity and federalism, a federal court should not interfere with ongoing
11 state criminal proceedings by granting injunctive or declaratory relief, absent extraordinary
12 circumstances. *Younger v. Harris*, 401 U.S. 37, 44 (1971); *Middlesex County Ethics Comm’n v.*
13 *Garden State Bar Ass’n*, 457 U.S. 423, 431 (1982). The *Younger* abstention doctrine applies to
14 claims raised in federal habeas corpus proceedings. *Edelbacher v. Calderon*, 160 F.3d 582, 587 (9th
15 Cir. 1998); *Carden v. State of Montana*, 626 F.2d 82, 83-85 (9th Cir. 1980), *cert. denied*, 449 U.S.
16 1014 (1980). The *Younger* abstention doctrine is required when: (1) state judicial proceedings are
17 pending; (2) the state proceedings involve important state interests; and (3) the state proceedings
18 afford adequate opportunity to raise the constitutional issue. *Middlesex County Ethics Comm’n v.*
19 *Garden State Bar Ass’n*, 457 U.S. at 432; *Dubinka v. Judges of the Superior Court*, 23 F.3d 218, 223
20 (9th Cir. 1994). Only in cases of proven harassment or prosecutions undertaken by state officials in
21 bad faith without hope of obtaining a valid conviction, and perhaps in other special circumstances
22 where irreparable injury can be shown, is federal injunctive relief against pending state prosecutions
23 appropriate. *Carden v. Montana*, 626 F.2d 82, 83-84 (citing *Perez v. Ledesma*, 401 U.S. 82, 85
24 (1971)).

1 In the instant case, all prerequisites to the *Younger* abstention doctrine are present. First,
2 Ambro is currently the subject of a criminal proceeding in state court, which is ongoing and has not
3 reached final adjudication. Second, the State of Nevada has an important interest in protecting the
4 public through the prosecution of criminal proceedings. Third, the state court criminal proceedings
5 afford an opportunity for Ambro to raise the constitutional claim asserted in the federal habeas
6 petition. In fact, the same issues asserted in the federal petition were presented to the state courts
7 and denied. (Exhibits 2-6 to Answer). To the extent that Ambro claims that the Nevada state courts
8 wrongly denied her pretrial habeas petition and petition for writ of mandamus, there is nothing that
9 requires this federal court to conduct a pre-conviction habeas review to cure state law procedural
10 defects. Finally, Ambro has not demonstrated any extraordinary circumstance why this Court should
11 not abstain from entertaining the petition. For the reasons discussed above, the federal habeas
12 petition is dismissed without prejudice.

13 **III. Certificate of Appealability**

14 In order to proceed with any federal appeal, petitioner must receive a certificate of
15 appealability. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22; 9th Cir. R. 22-1; *Allen v. Ornoski*, 435
16 F.3d 946, 950-951 (9th Cir. 2006); *see also United States v. Mikels*, 236 F.3d 550, 551-52 (9th Cir.
17 2001). Generally, a petitioner must make “a substantial showing of the denial of a constitutional
18 right” to warrant a certificate of appealability. *Id.*; 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529
19 U.S. 473, 483-84 (2000). “The petitioner must demonstrate that reasonable jurists would find the
20 district court’s assessment of the constitutional claims debatable or wrong.” *Id.* (quoting *Slack*, 529
21 U.S. at 484). In order to meet this threshold inquiry, the petitioner has the burden of demonstrating
22 that the issues are debatable among jurists of reason; that a court could resolve the issues differently;
23 or that the questions are adequate to deserve encouragement to proceed further. *Id.* This Court has
24 considered the issues raised by petitioner, with respect to whether they satisfy the standard for
25
26

1 issuance of a certificate of appealability, and determines that none meet that standard. The Court
2 will therefore deny petitioner a certificate of appealability.

3 **IV. Conclusion**

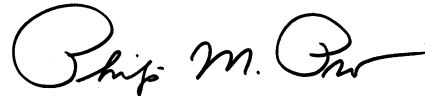
4 **IT IS THEREFORE ORDERED** that the petition for a writ of habeas corpus (ECF No. 1)
5 is **DISMISSED**, without prejudice.

6 **IT IS FURTHER ORDERED** that petitioner's motion for a stay of the state court trial (ECF
7 No. 8) is **DENIED**.

8 **IT IS FURTHER ORDERED** that petitioner is **DENIED A CERTIFICATE OF**
9 **APPEALABILITY**.

10 **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL ENTER JUDGMENT**
11 **ACCORDINGLY**.

12 Dated this 29th day of March, 2011.

13 

14 UNITED STATES DISTRICT JUDGE
15
16
17
18
19
20
21
22
23
24
25
26